

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln No.:	10/036,910)	Confirmation No. 5104
Applicants:	Danielsen et al.)	_____
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Examiner:	Czekaj, David)	
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Docket No.:	CRO234M (72460))	
Customer No.:	22242)	

RESPONSE AND SUBMISSION OF 1ST SUBSTITUTE APPEAL BRIEF

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

In response to the Office Action dated May 22, 2006, as entered in the above-captioned matter, the applicants' Appeal Brief was identified as defective for failing to provide an appropriate summary of claimed subject matter and for making reference to claims in the argument section that do not, in fact, exist in the current applicant.

As to the latter observation, the applicant apologizes for inadvertent references to non-present claim numbers. The included substitute Appeal Brief includes corrections in this regard. This substitute Appeal Brief also differs from the original in that the claims appendix, the evidence appendix, and the related proceedings appendix each now begin on a new page to conform to practice as recommended by relevant portions of the Manual of Patent Examining Procedure.

The Appeal Brief was also criticized as not containing an appropriate summary of claimed subject matter. No specific issues were identified by the Examiner with respect to this observation.

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The applicant has carefully reviewed the summary section and, with all due respect, finds the present text to be fully compliant with the requirements of 37 C.F.R. §41.37. Particular reference was made by the Examiner with respect to the requirements of 35 C.F.R. §41.37(c)(1)(v). That section first requires:

A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawings, if any, by reference characters.

This is exactly what the present summary section in the Appeal Brief provides. The subject matter of the independent claims is presented, in prose format, including references to the specification by page and line number (via corresponding footnotes) as well as reference characters. As to the latter requirement, the summary section even includes presentations of the figures that are referred to in this way.

This portion of the Code of Federal Regulations then provides as follows:

For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. §112, 6th paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

There are no independent or dependent claims being presented for argument that include a means plus function or step plus function recitation. Therefore, this section of 35 C.F.R. §41.37(c)(1)(v) is not applicable.

There are no other specific requirements set forth in the Code of Federal Regulations. The applicant therefore respectfully submits that the summary of claimed subject matter section of the Appeal Brief is fully compliant with the requirements of the Code of Federal Regulations and is in suitable condition to support consideration by the Board.

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No other criticisms were presented with respect to the Appeal Brief.

Respectfully submitted,

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Date: June 13, 2006

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